

EXHIBIT 23

In the Matter of

Case No. 18-cv-05775 (ERK)(TAM)

STAR AUTO SALES OF BAYSIDE, INC., et al.

v.

VOYNOW, BAYARD, WHYTE AND COMPANY LLP, et al.

Deposition of Robert Seibel, 30(b)(6)

Thursday, June 22, 2023



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Reporting
Company

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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STAR AUTO SALES OF BAYSIDE, INC.
(d/b/a STAR TOYOTA OF BAYSIDE),
STAR AUTO SALES OF QUEENS, LLC
(d/b/a STAR SUBARU), STAR HYUNDAI
LLC (d/b/a STAR HYUNDAI), STAR
NISSAN, INC. (d/b/a STAR NISSAN),
METRO CHRYSLER PLYMOUTH INC. (d/b/a
STAR CHRYSLER JEEP DODGE) STAR AUTO
SALES OF QUEENS COUNTY LLC (d/b/a
STAR FIAT) and STAR AUTO SALES OF
QUEENS VILLAGE LLC (d/b/a STAR
MITSUBISHI),

Plaintiffs,

-against-

Case No.:
18-cv-05775
(ERK) (TAM)

VOYNOW, BAYARD, WHYTE AND
COMPANY LLP, HUGH WHYTE, and
RANDALL FRANZEN,

Defendants.

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30 (b) (6) VIDEOTAPED DEPOSITION OF
VOYNOW, BAYARD, WHYTE and COMPANY, LLP

BY: ROBERT SEIBEL

(Taken by Plaintiff)

3000 Marcus Avenue, Suite 3W8
Lake Success, New York

June 22, 2023
10:40 a.m.

Reported by Ruthayn Shalom, a Shorthand Reporter and
Notary Public within and for the State of New York.

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2 the entries.

3 Q The process is Vivian would post yearend?

4 A Well, we would -- as part of our tax
5 yearend, if there was any adjustments that we were
6 going to propose, we would propose them to
7 management. Management would review them and if
8 they agreed with the entries they would post the
9 entries to the general ledger and after they were
10 posted then Sean would have run that trial balance
11 to have a copy of the trial balance after the
12 entries are posted.

13 Q There is some handwriting on the first
14 page in the middle. It says -- it looks like it
15 says, Where is 481 ADJ, and it says something else.
16 Do you know what that says?

17 A Yes.

18 Q What does it say?

19 A Where is 481 adjustment, question mark,
20 for lease hold, question mark.

21 Q What is that in reference to?

22 A Around this time, the Internal Revenue
23 Service -- excuse me, the United States Treasury had
24 issued new regulations with regard to tangible
25 property regulations that needed to be compiled with

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2 subject to further objections but we are not
3 waiving these objections.

4 BY MR. MULE:

5 Q Mr. Seibel, you have been shown
6 Exhibit 157 for identification. Can you identify
7 what this is?

8 (Plaintiff's Exhibit 157, Marked for
9 Identification.)

10 A No.

11 Q Does this -- has Voynow seen journal
12 entries on Reynolds that are in a different format
13 that relate to yearend adjustments?

14 A This is not the format of a Reynolds &
15 Reynolds printout report.

16 Q Does Voynow sit with the controller to
17 make yearend entries?

18 MS. FITZGERALD: Objection to form.

19 A We would -- any entries that we were
20 proposing as part of our yearend tax visit, we would
21 go over -- we would go over them with management and
22 with the controller to get management to review and
23 approve them, and then the controller would post
24 those to the general ledger. In the case of Star,
25 Vivian, when she would go to post the entries, she

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2 would ask whoever did the entries to be nearby in
3 case she had questions.

4 Q So Vivian would ask whoever proposed the
5 entries, and if it was Star Nissan, that would
6 likely be Sean McCormick; is that correct?

7 MS. FITZGERALD: Objection to form.

8 A For the years that he was --

9 Q He was employed?

10 A That he was employed, yes.

11 Q Did you ever sit by when Vivian posted
12 yearend entries?

13 A If -- when I had entries that I proposed
14 for Toyota, I would give them to her to review and
15 to approve the entries and when she would go to post
16 them onto the general ledger, yes, she would ask me
17 to sit or stay in close proximity there in case she
18 had any questions.

19 Q Voynow would have some document, whether
20 it's a journal pad or a spreadsheet, identifying
21 adjusted entries to be made to tie into the tax
22 return, correct?

23 A I'm sorry, repeat that again.

24 Q Voynow would have some document, journal
25 pad or spreadsheet identifying proposed adjusted

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2 president but also a principal of Thompson
3 Automotive, correct?

4 A You're saying is he the owner as well?

5 Q Yes.

6 A Yes. He was the owner of Thompson Motor
7 Group.

8 Q For Thompson, you got signatures approving
9 the posting of adjusting journal entries from the
10 owner and from the CFO, but for Star, you don't have
11 anything in writing approving adjusting journal
12 entries, correct?

13 A In a review engagement, you're required to
14 get a management representation letter and that's
15 one of the things that needs to be in your
16 management representation letter is that they, as
17 management, because management is responsible for
18 the books and records of the company, they're
19 signing off that they have reviewed and approved the
20 posting of any adjustments that we proposed. So we
21 are required in a review engagement to have that in
22 the management rep letter that they sign.

23 MS. FITZGERALD: Let's take a one-minute
24 break. We don't even have to move.

25 THE VIDEOGRAPHER: The time is 7:56 p.m.